



October 24, 2017

Regional Freedom of Information Officer
U.S. EPA, Region 10
Office of Ecosystems, Tribal and Public Affairs
1200 6th Avenue ETPA-124
Seattle, WA 98101
Via FOIA Online

Re: Freedom of Information Act Request

Dear Region 10 Freedom of Information Officer:

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq*, as amended, on behalf of Friends of the Columbia Gorge ("Friends"), a non-profit public interest organization. Friends requests all records related to the collection and analysis of fish tissue and sediment sampling in the Bonneville Pool section of the Columbia River, from directly behind the Bonneville Dam upriver to directly downstream the Dalles Dam as well as 10 miles up each of the White Salmon, Hood and Klickitat Rivers from January 1, 2000 through the date of your response.

Crag Law Center is making this request on behalf of Friends. Friends is committed to protecting the health of the Columbia River and educating the public about the activities of the Environmental Protection Agency ("EPA") in the region.

Pursuant to FOIA, Friends request the following records from the EPA relating to, and including, data collection and contaminant analysis of fish tissue and sediment samples taken from the Bonneville Pool between the Bonneville Dam at River Mile 146 and the Dalles Dam at River Mile 192, and ten miles up each the Columbia River's major tributaries, including the White Salmon River, starting at Columbia River, River Mile 167.5, and running ten miles upriver, the Hood River starting at Columbia River, River Mile 169.5 and running ten miles upriver, and the Klickitat River starting at Columbia River, River Mile 181 and running ten miles upriver:

- 1) All tissue raw data collected from fish sampled at locations 6, 62, 25 and 56 for EPA and Columbia River Inter-Tribal Fish Commission's ("CRITFC") 1996-1998 River Survey. EPA, Columbia River Basin Fish Contaminant Survey, 1996-1998, EPA 910-R-02-006 at 1-6 (2002).
- 2) Any subsequent tissue raw data and analysis for fish collected from these or similarly located sites. *Id.*
- 3) Any sediment and fish tissue raw data or contaminant analysis from samples collected in the Bonneville Pool, and from the mouth to ten miles upriver of the White Salmon River, the Hood River and the Klickitat River.

- 4) Any raw data and analysis of sediment and fish tissue from samples collected in relation to the operation of the Bonneville and Dalles Dams.
- 5) Any raw data and analysis of sediment and fish tissue collected in relation to the Condit Dam on the White Salmon River, from both before and after the 2010 dam removal.
- 6) Any raw data and analysis of sediment and fish tissue collected in relation to the Powerdale Dam on the Hood River, from both before and after the 2010 dam removal.
- 7) The entire project file related to monitoring the fish tissue and sediment analysis in the Bonneville Pool and lower 10 miles of the Hood, White Salmon and Klickitat Rivers.

Pursuant to FOIA, please send Friends (at Crag Law Center's address) copies of all requested records related to fish tissue and sediment analysis from January 1, 2000 through the date of your response. Please include all responsive records, including, but not limited to, all writings, letters, memoranda, emails, notes wherever they are found, documents, summaries, working papers, draft documents, correspondence, monitoring documents or notes, inspection reports, compliance reports, documentation of meetings, minutes of meetings, data, graphs, charts, photos, and/or maps. In your response, please indicate the months and the days that you are using as the date range for processing the request.

Scope—This request seeks all documents in the project file relating to sediment and fish tissue sampling and analysis from the Bonneville Pool and ten miles up three tributaries in the mid-lower Columbia, as well as additional documents related to EPA's activities in the area. If the EPA should seek to prevent disclosure of any requested records, Friends request that the EPA: (1) identify each such document with particularity (including date, author, recipient, and parties copied); (2) explain in full the basis for seeking non-disclosure; and (3) provide Friends with any severable portions of the record for which the agency does not claim a specific exemption consistent with 40 C.F.R. § 2.105(a).

Timing—Under FOIA, the EPA must make a determination on this request within 20 working days from the date of receipt of this request. 5 U.S.C. § 552(a)(6)(A)(i). A determination is a statement of whether the agency will comply with the request, its reasons for complying or not complying with the request, the requester's right to seek assistance from the FOIA Public Liaison of the agency, and the requester's right to appeal an adverse decision. *Id.*

Format—Friends request that the Service provide copies of the requested records pursuant to 5 U. S. C. § 552(a)(2)(D). Where appropriate and possible, please provide data in an electronic database form such as .txt, .xls, .xlsx, .mdb, or .accda form and all other electronic documents in searchable .pdf, .txt, .doc, .docx, .rtf, .xls, or .xlsx form. Please do not provide the records in a single, or "batched," .pdf file. Friends appreciates the inclusion of an index.

Fees—Friends request that you waive any applicable fees related to this request, including document search and duplication costs. The requested material is in the "public interest" and will contribute to "public understanding of the operations or activities of the government." 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, Friends is a non-profit organization and does not have a commercial interest in the requested information. The information requested is not already in the public domain, and Friends will disseminate the information to a reasonably

broad audience of persons interested in the subject. 40 C.F.R. § 2.107(l). The EPA should grant Friends' fee waiver for the following reasons:

- 1) The subject matter of the requested record concerns "the operations or activities" of the EPA with respect to the mid-lower Columbia, from the Bonneville Dam to the Dalles Dam, including the lower 10 miles each of the Hood River, the White Salmon River and the Klickitat River. 40 C.F.R. § 2.107(l)(2)(i). The connection between this information and the activities of the EPA is "direct and clear" because it relates specifically to EPA data collection and analysis of sediment and fish tissue toxins in the Columbia River. *Id*
- 2) Disclosure of the information is "likely to contribute" to an understanding of the EPA's operation or activities. The content of the records will provide the public with the EPA's data and analyses of toxin levels in fish tissue and sediments in the Columbia River and tributaries. 40 C.F.R. § 2.107(l)(2)(ii). These records are not currently in the public domain and the disclosure will provide the public meaningful information about how the EPA analyzes contamination in the Columbia River. *Id*.

Publically available data for the Bonneville Pool are limited. In 2002, EPA published a survey of the level of toxins found in fish tissues across the Columbia River Basin, which included combined analytical results of tissue from fish sampled in the Bonneville Pool and tributaries in the area. EPA (2002), Columbia River Basin Fish Contaminant Survey, 1996-1998, EPA 910-R-02-006. The EPA's report, Columbia River Basin: State of the River Report for Toxics (January 2009), includes data and analysis on levels of contamination in fish samples in the Columbia Basin, but there are few results for the Bonneville Pool. As this report notes the goal of continued analysis as well as education and involvement of the public in addressing toxins in the Columbia River Basin, this FOIA request will help the EPA realize this goal through facilitating dissemination of these data and analysis. *Id* at 39.

- 3) Disclosure of this information is likely to contribute to "public understanding" of the EPA's activities and operations as they pertain to collection and analysis of data in the Bonneville Pool and the mid-lower Columbia River. 40 C.F.R. § 2.107(l)(2)(iii). This area of the Columbia River is of importance for fishing (particularly tribal and recreational), recreation and tourism, and the EPA has identified it as an area of importance. DEQ, *Regional Environmental Monitoring and Assessment Program: 2009 Lower mid-Columbia River Ecological Assessment Final Report*, 9 (May 31, 2012) (noting that the EPA identified the Columbia River Basin as one of the Great Water Bodies of focus for the EPA's 2006-2011 Strategic Plan). EPA's continuing interest in the Columbia River and its focus on toxin risk is evident in its 2014 Report *Columbia River Toxics Reduction Working Group: Strategy for Measuring, Documenting and Reducing Chemicals of Emerging Concern* and its general involvement with the Columbia River Toxics Reduction Working Group,

<https://www.epa.gov/columbiariver/columbia-river-toxics-reduction-working-group>.

The information will serve to inform a "reasonably broad audience" through dissemination by Friends. *Id.* Friends disseminate information to the public through engagement events and newsletters with its over 7,000 members, as well as its public website. Disclosure of this information will allow them to educate "reasonably broad audience of persons interested in the subject." *Id.*

- 4) The requested information will enhance the public's understanding "to a significant extent" with respect to the EPA's actions and analysis of fish tissue and sediment in the Bonneville Pool and its major tributaries. 40 C.F.R. § 2.107(l)(2)(iv). Providing the public with this information will help the public provide the EPA with relevant information for future actions relative to reducing toxins in the Columbia River.
- 5) Friends has no commercial interest that would be furthered by the requested information.

Friends is the only non-profit dedicated entirely to protecting the Columbia Gorge. Friends educates the public about the Gorge, leading more than 100 guided hikes and outings annually, as well as monthly e-newsletters. Friends has over 7,000 members with whom it can communicate and share information. The public interest is the only purpose for the information request. In addition, a fee waiver is appropriate because Friends is seeking to better understand the distribution of toxins in the Columbia River as measured by levels in fish tissue and sediment samples that affect Friends and its members and the public's enjoyment of the river.

In the event that you decide not to waive fees, please contact me before incurring any costs in response to this FOIA request.

Please send the requested information to Crag Law Center's office at the address listed below. If you have any questions regarding this request, please do not hesitate to contact me at the email address or phone number listed below. Thank you for your time and cooperation.

Sincerely,



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